



GEORGIA DEPARTMENT OF  
COMMUNITY HEALTH

Rhonda M. Medows, MD, Commissioner

Sonny Perdue, Governor

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**NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE THAT on January 23, 2008, at 1:00 pm in the Board Room at the Department of Community Health, #2 Peachtree Street, 40<sup>th</sup> Floor, Atlanta, Georgia, a public hearing will be held for the presentation of proposed administrative rule changes.

The chapter affected by the proposed rule & regulation changes is listed below:

**Ga. Admin. Comp. Ch. 111-3-6, Indigent Care Trust Fund**

***111-3-6-.01, Definitions***

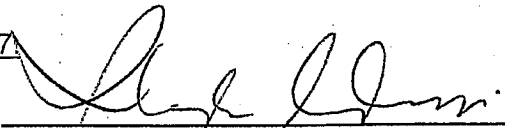
***111-3-6-.03, Use of Funds***

All interested persons are hereby given the opportunity to participate by submitting data, views or arguments (orally or in writing). Oral comments may be limited to 10 minutes per person. If you need auxiliary aids or services because of a disability, please contact the Office of General Counsel at (404) 656-4297 at least (3) three business days prior to the hearing.

Written comments must be submitted to the Department or postmarked no later than the close of business at 5:00 p.m. on January 24, 2008. Comments may be faxed to (404) 463-5025, emailed to [pjohnson@dch.ga.gov](mailto:pjohnson@dch.ga.gov) or mailed to the address above, attention General Counsel Division.

Unless revision of the proposed rule changes is indicated as a result of the public comments, it is the intent of the Department of Community Health to ask the Board of Community Health to approve the rule(s) as promulgated herein for final adoption on February 14, 2008.

This 14 day of December, 2007.

  
Rhonda Medows, M.D.

RM:pmj

Attachments

Equal Opportunity Employer

**Rule 111-3-6-.01**  
**Definitions**

**SYNOPSIS**

This rule change is necessary to reflect the new DSH criteria agreed to by the Board of Community Health in the public notice approved in the November, 2007 board meeting. The new criteria to receive a DSH payment is a hospital must meet both federal criteria to be eligible. The new criteria eliminated any state specific criteria. The rule change will correctly reflect that a hospital must meet the criteria established by the department.

**EXPLANATION OF CHANGE**

The words "at least one of" are deleted from the definition of disproportionate share hospital.

### **111-3-6-.01 Definitions.**

(1) "Disproportionate share hospital" means a hospital licensed in Georgia which meets ~~at least one of~~ the criteria established by the Department for designation as a hospital which serves a disproportionate number of low-income patients with special needs.

(2) "Medically indigent" means a person with an income no greater than 200 percent of the federal poverty level guidelines as published by the United States Department of Health and Human Services.

(3) "Trust Fund" means the Indigent Care Trust Fund created by O.C.G.A. Title 31, Chapter 8, Article 6.

(4) "Private Hospital" means any hospital licensed in Georgia which is not a public hospital.

(5) "Public Hospital" means any hospital licensed in Georgia that is owned by the State of Georgia, a city, county, or an authority organized pursuant to the "Hospital Authorities Law," O.C.G.A. § 31-7-70 *et. seq.*

Authority: O.C.G.A. §§31-8-155, 49-4-142.

**Rule 111-3-6-.03**  
**Use of Funds**

**SYNOPSIS**

~~This rule is being amended to clarify that DSH payments are prospective in nature and are paid with the intent that the payment will cover estimated uncompensated Medicaid and uninsured costs in the fiscal year that the payment is made.~~

This rule is being amended to clarify that DSH payments are prospective in nature and that funds are to be used in the fiscal year that the payment is made.

**EXPLANATION OF CHANGE**

New language was added at paragraph (4)(e) and the existing (4)(e) was shifted and renamed (4)(f).

### 111-3-6-.03 Use of Funds.

(1) Funds appropriated by the General Assembly to the Department pursuant to O.C.G.A. § 31-8-156 shall be used for the purposes stated in Rule 111-3-6-.02(5) and shall be used to match federal funds which are available for such purposes.

(2) The Department shall provide for public notice of the manner of disbursement of the Trust Fund appropriation as provided in Rule 350-1-.02(3) and 350-2-.08. Such funds may be transferred to disproportionate share hospitals by electronic funds transfer.

(3) The Department shall issue a manual of policies and procedures and other instructions for disproportionate share hospital programs (the "Manual"), and shall adopt the Manual as an appendix to Part II of the Department's Policies and Procedures for Hospital Services. The Manual shall contain policies, procedures, instructions, public notification plan requirements, forms and other items for hospitals' use in operating their programs consistent with these Rules. The Manual shall contain a procedure for accepting and resolving complaints concerning a hospital's compliance with these Rules. The Department may approve a plan for the operation of a disproportionate share hospital to coordinate its program with an existing program of care for the medically indigent sponsored by a local government, provided that the program is operated in a manner consistent with these Rules and further provided that the program is operated in a manner consistent with these Rules and further provided that no patients are rendered ineligible for services without charge or at a reduced charge who would have been eligible if the variance had not been granted.

(4) As a condition of receipt of such funds, providers of medical assistance must:

(a) continue participation in the Medicare program;

(b) comply with the Rules and the Department's Policies and Procedures, including specifically Part II of the Department's Policies and Procedures for Hospital Services and the Manual;

(c) comply with the Department's requests for reports on the use of funds;

(d) use the funds to provide health care services to Medicaid recipients and medically indigent citizens of the state; and

(e) use the funds during the fiscal year in which the payment is disbursed;  
and

~~(e)~~(f) if the provider is a disproportionate share hospital, meet the following additional conditions:

1. continue participation in the Medicare program;

2. make available its services to Medicaid and Medicare recipients without discrimination;

3. continue to provide obstetrical care services if such services are presently provided;
4. comply with the patient transfer requirements provided in the Emergency Medical Treatment and Active Labor Act of 1986, as amended;
5. ensure that patients are not transferred or denied services based solely or in significant part on economic reasons;
6. make arrangements with sufficient numbers of physicians on each service to assure that Medicaid patients have full access to the facility's services without being required to pay physicians for Medicaid covered services;
7. make arrangements with physicians to ensure Medicaid and medically indigent patients are not required to have a physician with staff privileges as a condition of admission or treatment when such admission or treatment is determined to be medically necessary and within the scope of service capability of the hospital;
8. document which physicians with staff privileges accept and will treat Medicaid patients in their offices, and assist Medicaid patients with referrals to such physicians. The hospital shall encourage full provider participation in the Medicaid program;
9. ensure that preadmission deposits are not required on demand as a condition of treatment of Medicaid eligible persons or medically indigent persons;
10. for treatment of medically indigent patients, ensure that ability to pay does not act to deny or substantially delay receipt of medically necessary services. The hospital shall provide assistance to medically indigent patients by operating a program under which such patients may receive care without charge or at a reduced charge, except that no hospital shall be required to provide services without charge or at a reduced charge once the hospital's medical indigency services expenditures equals the amount described in Rule 111-3-6-.03(4)(e)(12)(iii). Consistent with the Rules and the Manual, the hospital shall:
  - (i) provide services for no charge to persons with incomes below 125 percent of the federal poverty level; and
  - (ii) provide services for no charge or adopt a sliding fee scale for persons with incomes between 125 percent and, at a minimum, 200 percent of the federal poverty level;
11. as more specifically set forth in the Manual, effectively advise the public of the hospital's participation in the program, the availability of services provided, the terms of eligibility for free and reduced charge services, the application process for free and reduced charge services, and the person or office to whom complaints or questions about the hospital's participation in or operation of the program may be directed; The hospital shall comply with such other provisions as may be reasonably established by the Department in the Manual. Upon request by the Department, the hospital shall

demonstrate its compliance with the public notification requirements of this section and with the Manual.

12. submit to the Department a report on the use of Trust Fund payment adjustments each calendar year. Such reports shall:

- (i) be in a format established by the Department;
- (ii) be available to the public for examination; and
- (iii) include a report of the number of medically indigent persons served without charge in both inpatient and primary care settings and the dollars expended for such services. Hospitals shall report dollars expended using a cost-to-charges ratio of 65 percent. Over a twelve month period, each hospital will be expected to report a medical indigency services expenditure of an amount equal to no less than 100 percent of the hospital's total Trust Fund payment adjustments minus the amount transferred or deposited to the Trust Fund by or on behalf of the hospital. Failure to provide such reports in the format prescribed and within the time periods established by the Department, or to demonstrate timely accessibility to Trust Fund supported services, may result in a withholding or recoupment of Trust Fund payment adjustments.

13. sign a letter of Agreement which incorporates the provisions of these Rules, the Department's Policies and Procedures and the Manual.

14. comply with the requirements of the Certificate of Need program under the Division of Health Planning of the Department, as set forth more specifically in O.C.G.A. §§ 31-6-40 et. seq., and the rules promulgated thereunder, and the annual reporting requirements under O.C.G.A. § 31-6-70.

(5) The Department shall annually report to the General Assembly on the use of monies appropriated to the Department from the Trust Fund. Such report shall be submitted to the Lieutenant Governor, Speaker, legislative counsel and legislative budget officer no later than January 31 of each calendar year. Such reports shall be made available to the public pursuant to Rule 111-3-6-.04.

(6) In the event that a disproportionate share hospital fails to comply with the Rules, the Department's Policies and Procedures or the Manual, the Department may, in addition to any other legal remedies available, assess liquidated damages against the disproportionate share hospital under its Letter of Agreement in an amount(s) established by the Department for each calendar day in which the hospital is non-compliant. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.

(7) In the event that a disproportionate share hospital knowingly and willfully makes or causes to be made any false statement or misrepresentation of material fact with respect to the hospital's use of funds from the Trust Fund or in response to any request for information from the Department related to the Trust Fund, including without limitation the submission of any report required pursuant to these Rules, the Department may, in addition to any other legal remedies available, assess liquidated damages

against the disproportionate share hospital under its Letter of Agreement in an amount not to exceed the disproportionate share payment for the year in which the false statement or misrepresentation occurred. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.

(8) Disproportionate share hospital payment adjustments to private hospitals shall be funded by state general funds appropriated for this purpose, which shall be used to match federal funds available for this purpose.

(9) Disproportionate share hospital payment adjustments to public hospitals shall be funded by intergovernmental transfers or by certified public expenditures, or a combination thereof, which shall be used to match federal funds available for this purpose.

Authority: O.C.G.A. §§ 31-8-155, 49-4-142.